

Appl. No. 10/045,724
Response dated May 22, 2006
Reply to Office Action of February 21, 2006

Remarks/Arguments

On November 7, 2005 a Notice of Appeal was filed together with a Request for Pre-Appeal Brief Review. Based on that Request, prosecution of this application has been reopened and a non-final office action dated February 21, 2006 has been received. Claims 1-20 are pending and stand rejected on varying grounds under §102(e) and 103(a).

No claims have been amended. All claims are in there respective original form other than claim 18 which was amended in a previous amendment.

In view of the comments below, Applicant respectfully submits that the rejections have traversed and thus respectfully requests that the Examiner reconsider the present application including claims 1-20 and withdraw the rejection of these claims.

a) Claims 1-3, 5, 8, 9, 11-12, 15, and 17-20 stand rejected under 35 U.S.C. 102(e) as being anticipated by van Ee et al.(US Patent No. 6,774,813).

Claims 1, 11, and 18 are in independent form with all other claims dependent on the closest lower numbered independent claim. The present invention deals with various aspects of obtaining appropriate commands from a web site for effecting a desired function by an intelligent device. It is noted that Applicant is not claiming all approaches for programming a remote control; rather only those methods and apparatus of obtaining commands for an intelligent device as specifically defined by the claims. Claim 1 defines a method that includes defining in a wireless internet access device (WIAD) a desired function to be performed by the intelligent

Appl. No. 10/045,724
Response dated May 22, 2006
Reply to Office Action of February 21, 2006

device, identifying via the WIAD the intelligent device and desired function to a web site through a wireless communication network, returning to the WIAD from the web site a subset of control instructions for controlling the intelligent device to perform the desired function and forwarding the subset of control instructions to the intelligent device all as specifically claimed.

Van Ee et al. may be viewed as relevant art, however this reference is directed in the main to a different problem than the present invention, i.e., Van Ee et al is a scheme for determining what set of control commands work for a given TV, etc. so as to program a remote control device. Van Ee et al. discusses one approach for programming a control device 106 so that the device is able to control a given TV 102 or VCR 104, where the control device 106 is a programmable remote controller for consumer equipment (col. 5, lines 41-46). Van Ee et al. includes programming means 110 for programming the control device 106.

The programming means is contained within a set top box (STB) (connected to the TV) and this means 110 includes internet connection (modem) 114 for connecting via a wired connection and the Internet 116 to a remote server 118 (col. 5, lines 51- 59). The programming means includes a memory 112 that has a database of apparatus type/brand information, e.g., TV by Phillips (col. 5, lines 53-54). Access buttons on the STB or remote control 106 are used to access a database in the memory 112 and select from a menu displayed on the TV an apparatus type and brand, which is then transmitted via the Internet 116 to the remote server 118 (col. 5, line 66 to col. 6, line 8).

The remote server 118 searches for all sets of control codes corresponding to the apparatus/brand information. Once these sets have been identified, the remote server selects a control code corresponding to a particular function (e.g., ON/OFF) and returns the same to

Appl. No. 10/045,724
Response dated May 22, 2006
Reply to Office Action of February 21, 2006

programming means 110 (col. 6, lines 9 - 20). This assortment of control codes is forwarded to control device 106, and each is tried until one works. The remote server is notified of the one control code that works and returns the corresponding full set of control codes to be programmed into the control device (col. 6, lines 24 - 67).

With reference to claim 1, the Examiner maintains that van Ee et al shows or suggests all features of claim 1 and with reference to claims 11 and 18 all features of these claims. Applicant respectfully disagrees. For example, claim 1 (analogously claims 11, 18) requires a WIAD and defining within the WIAD a desired function to be performed by the intelligent device (TV, etc of van Ee et al). The only devices in van Ee et al. that have any wireless functionality are the programming means (STB) 110 and remote control 106 (IR link). Neither of these devices at any time, define within the devices a desired function to be performed by the TV. At best one might argue that complete control is expected, however that is not defining a desired function and expecting return of a subset of control instructions as claimed. The STB does facilitate selection of an apparatus type and brand and does forward this to a remote server 118 (web site), however no desired function is indicated to the remote server and furthermore the identifying to the remote server is not performed via a wireless communication network. In van Ee et al. the remote server selects a subset of control instructions (e.g., ON/OFF) from each full set of instructions and these are returned to the programming device 110 and remote control 106.

Thus at least in view of one or more of the above reasons (e.g., absence of any teaching of the claimed WIAD or defining a desired function or identifying the desired function to a web site or doing so via a wireless communication network) all features of claim 1 or by analogy claims 11 and 18 have not been shown or suggested by van Ee et al. Hence, van Ee et al does not

Appl. No. 10/045,724
Response dated May 22, 2006
Reply to Office Action of February 21, 2006

anticipate claim 1, 11, or 18 and thus does not properly support a §102(e) rejection of any one of these claims or any claim dependent on any one of these claims. Therefore and at least in view of these reasons, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 1-3, 5, 8, 9, 11-12, 15, and 17-20 under 35 U.S.C. 102(e) as being anticipated by van Ee et al.(US Patent No. 6,774,813).

b) Claims 4, 6, 7, 14, and 16 stand rejected under 35 US.C. 103(a) as being unpatentable over van Ee et al. in view of Maymudes (US Patent No. 6,748,278).

Claims 4, 6, and 7 are dependent on claim 1, while claims 14 and 16 are dependent on claim 11. Maymudes does not show or suggest the features of claim 1 or claim 11 that are missing from van Ee et al and thus claim 1 and claim 11 should be allowable over this combination of references. Therefore, at least by virtue of dependency, claims 4, 6, 7, 14, and 16 should likewise be allowable over these references. Hence, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 4, 6, 7, 14, and 16 under 35 US.C. 103(a) as being unpatentable over van Ee et al. in view of Maymudes (US Patent No. 6,748,278).

c) Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over van Ee in view of Baun et al (US 2003/0197930).

Claim 10 is dependent on claim 1. Baun et al. does not show or suggest the features of claim 1 that are missing from van Ee et al and thus claim 1 should be allowable over this combination of references. Therefore, at least by virtue of dependency, claim 10 should likewise be allowable over these references. Hence, Applicant respectfully requests that the Examiner

Appl. No. 10/045,724
Response dated May 22, 2006
Reply to Office Action of February 21, 2006

reconsider and withdraw this rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over van Ee et al. in view of Baun et al (US 2003/0197930).

d) The Examiner indicates that "Applicant employs broad language, which includes the use of word, and phrases, which have broad meanings in the art. In addition, Applicant has not argued any narrower interpretation of the claim language, nor amended the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly and as reasonably possible, in determining patentability of the disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993). Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response, and reiterates the need for the Applicant to more clearly and distinctly, define the claimed invention."

Applicant is appreciative of the Examiner's suggestions and certainly has no interest in portraying even the appearance of being unduly argumentative or inflexible. However, Applicant is unable to determine from the generalities offered by the Examiner what words or phrases the Examiner believes are subject to a broad construction that allows the cited references to be reasonably construed to show or suggest all features of the claims. If the Examiner has any

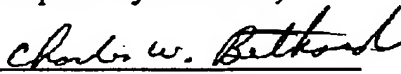
Appl. No. 10/045,724
Response dated May 22, 2006
Reply to Office Action of February 21, 2006

specific suggestions that would move this application forward, Applicant would be very interested in considering such suggestions.

Accordingly, Applicant respectfully submits that the claims, as pending, clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable. Such allowance is hereby earnestly and respectfully solicited at an early date. If the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

Although it is not anticipated that any fees are due or payable since this response is being timely filed within the allowed 3 month time period and no other fees appear to be due or payable, the Commissioner is hereby authorized to charge any fees that may be required to Deposit Account No. 50-3435.

Respectfully submitted,


Charles W. Bethards
Reg. No. 36,453

Law Office of Charles W. Bethards, LLP
P.O. Box 1622
Colleyville, Texas 76034
Phone (817) 581-7005
Fax (817) 281-7136
Customer No. 51874